

**CENTRAL PUGET SOUND  
GROWTH MANAGEMENT HEARINGS BOARD  
STATE OF WASHINGTON**

CITY OF BONNEY LAKE, JEROME	)	<b>CPSGMHB Case No. 05-3-0016c</b>
TAYLOR, THE BUTTES LLC, and	)	
FUTUREWISE,	)	<i>(Bonney Lake, et al)</i>
	)	
Petitioners,	)	
	)	
and	)	
	)	
CITIES OF ROY AND ORTING	)	
	)	
Intervener,	)	
	)	
v.	)	
	)	
PIERCE COUNTY,	)	<b>ORDER FINDING</b>
	)	<b>COMPLIANCE and</b>
Respondent,	)	<b>RESCINDING INVALIDITY</b>
	)	
and	)	
	)	
SUMMIT WALLER COMMUNITY	)	
ASSOCIATION,	)	
	)	
Intervener.	)	
	)	

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**I. BACKGROUND**

On August 4, 2005, the Board issued its Final Decision and Order (**FDO**) in CPSGMHB Case No. 05-3-0016c.<sup>1</sup> The Board **remanded** the challenged Ordinance [Ordinance No. 2004-87s, which amended the County's Comprehensive Plan] and stated:

The Board **remands** Ordinance No. 2004-87s, Amendment 5, specifically the "Shoreline Density Exceptions" to Pierce County with direction to take appropriate legislative action to amend, modify, repeal or otherwise revise these provisions to comply with goals 1 and 2 and the provisions of RCW 36.70A.070(5), as interpreted by the Board and set forth in this Order.

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<sup>1</sup> The caption on this Order is "Order Finding Compliance [CPSGMHB Consolidated Case No. 04-3-0007c] and Final Decision and Order [CPSGMHB Case No. 05-3-0016c.

FDO, at 55. The FDO also entered a determination of invalidity for this noncompliant provision and set forth a compliance schedule. *Id.*

On August 31, 2005, the Board issued an Order denying Futurewise's request for reconsideration.

On January 26, 2006, the Board received "Respondent Pierce County's Statement of Actions Taken to Comply and Motion to Expedite Compliance Hearing Schedule" (SATC). Attached to the SATC were two exhibits: Ordinance Nos. 2005-80s and 2005-119.

On January 31, 2006, the Board issued an "Order Granting Request to Expedite Compliance Hearing."<sup>2</sup> With the consent of the parties, the Compliance Hearing was moved to February 22, 2006.

No written response to the SATC was filed with the Board by Petitioner Futurewise.

On February 22, 2006 the Compliance Hearing was convened by telephone conference call at approximately 10:00. Board member Edward G. McGuire convened the hearing, with Board members Margaret Pageler and Bruce C. Laing. Respondent Pierce County was represented by M. Peter Philley. Petitioner Futurewise was represented by John T. Zilavy. The proceedings were recorded by audio tape. The Compliance Hearing was closed at approximately 10:20 a.m.

## **II. DISCUSSION**

In its SATC, and at the compliance hearing, the County explained that its compliance effort involved two phases: Phase 1 was the adoption of Ordinance No. 2005-80s, amending its development regulations to repeal reference to its "Shoreline Density Exceptions;"<sup>3</sup> Phase 2 was the adoption of Ordinance No. 2005-119, amending its Comprehensive Plan to repeal reference to its noncompliant "Shoreline Density Exceptions."<sup>4</sup> The County asserted that these actions complied with the GMA and the Board's Order. *See* SATC, at 9-15.

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<sup>2</sup> A "Corrected [as to week day only] Order Granting Request to Expedite Compliance Hearing" was issued later the same day.

<sup>3</sup> *See* Ordinance No. 2005-80s, Section 2 and Exhibit B, repealing 18A.35.020(C)(4) of the Pierce County Code.

<sup>4</sup> *See* Ordinance No. 2005-119, Section 1, repealing relevant portions of 19A.40.020(D)(7) of the Pierce County Code.

At the compliance hearing, and with a follow-up e-mail, Petitioner Futurewise agreed with the County that the adoption of the two Ordinances complied with the GMA and the Board's Order.

The Board concurs. Pierce County's adoption of Ordinance Nos. 2005-80s and 2005-119 complies with the provisions of RCW 36.70A.070(5) and goals 1 and 2 [RCW 36.70A.020(1) and (2)]. These Ordinance repeal the noncompliant and invalid provisions of the County's Plan and maintain consistency between the Plan and development regulations.

### **III. FINDING OF COMPLIANCE and RECISION OF INVALIDITY**

Based upon review of the Board's FDO, the SATC, Ordinance Nos. 2005-80s and 2005-119, the arguments and comments offered at the compliance hearing, the Board finds:

- By adopting Ordinance Nos. 2005-80s and 2005-119, Pierce County has complied with the goals and requirements of the GMA as set forth in the aforementioned Board FDO and the GMA. The Board therefore enters a **Finding of Compliance** for Pierce County in CPSGMHB Case No. 05-3-0016c.

Having found compliance, there is no longer any substantial interference with the goals of the Act and the Board **Rescinds the Determination of Invalidity**.

### **V. ORDER**

Based upon review of the August 4, 2005 Final Decision and Order, Pierce County's SATC, Ordinance Nos. 2005-80s and 2005-119, the arguments and comments offered at the compliance hearing, the Board ORDERS:

- Pierce County's adoption of Ordinance Nos. 2005-80s and 2005-119 complies with RCW 36.70A.070(5) and goals 1 and 2 [RCW 36.70A.020(1) and (2)]. The Board therefore enters a **Finding of Compliance** and **Rescinds the Determination of Invalidity** in CPSGMHB Case No. 05-3-0016c, *Bonney Lake, et al., v. Pierce County*.
- CPSGMHB Case No. 05-3-0016c is closed.

So ORDERED this 23<sup>rd</sup> day of February, 2006.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

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Bruce C. Laing, FAICP  
Board Member

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Edward G. McGuire, AICP  
Board Member

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Margaret A. Pageler  
Board Member

Note: This order constitutes a final order as specified by RCW 36.70A.300 unless a party files a motion for reconsideration pursuant to WAC 242-02-832.